

COMMUNITY WELFARE.

No. 31 of 1972.

AN ACT to make provision for the establishment of a Department for Community Welfare, to promote individual and family welfare in the community, and for incidental and other purposes.

[Assented to 16th June, 1972.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Community Welfare Act, 1972.* Short title.

2. This Act shall come into operation on a date to be fixed by proclamation. Commencement.

Interpreta-
tion.

3. In this Act, unless a contrary intention appears,—

“Department” means the Department for Community Welfare referred to in section 4 of this Act;

“the Director” means the Director of the Department for Community Welfare.

Establish-
ment of
Department
for Com-
munity
Welfare.

4. For the purposes of this Act there is hereby established as a department of the Public Service of the State, a department to be known as the Department for Community Welfare.

Administra-
tion of the
Act.

5. (1) The administration of this Act and the control of the Department is vested in the Minister.

(2) Subject to the Public Service Act, 1904, and to any direction of the Minister, the Director has the general administration of the Department and he shall be the permanent head of the Department.

Minister to
be body
corporate.

6. (1) For the purposes of this Act, the Minister shall be a body corporate under the name of “The Minister for Community Welfare” with perpetual succession and a common seal.

(2) The Minister, as so constituted a body corporate, is capable in the corporate name of suing and being sued, and of acquiring, holding, exchanging, leasing, and disposing of real and personal property, and of doing and suffering all that bodies corporate may do and suffer.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Minister affixed to a document and shall presume it was duly affixed.

Director of
Community
Welfare.

7. (1) Subject to subsection (2) of this section a person shall be appointed under and subject to the Public Service Act, 1904, to the office of Director of Community Welfare.

(2) The person who is to be appointed to the office of Director shall be chosen from amongst persons who have attained tertiary level qualifications in a recognised field of the behavioural sciences relevant to the administration of social and community welfare services, or who possess other academic qualifications which, to the satisfaction of the Minister, indicate the attainment of a degree of relevant professional knowledge of a comparable standard.

8. (1) The Governor may appoint a person to be the deputy of the Director and that person when so appointed is authorized to exercise any power and perform any duty that the Director may exercise or is required to perform under this Act, whether the Director is absent or not; but the appointment of a deputy does not affect the exercise or discharge by the Director himself of any power or duty. Other staff.

(2) The person who is to be appointed the deputy of the Director shall be chosen from amongst persons who would be eligible for appointment to the office of Director.

(3) There shall be appointed under and subject to the Public Service Act, 1904, such officers and temporary employees as may be necessary to provide administrative, scientific, technical and other services to the Department.

(4) The Minister may engage, under contract for services, such professional and technical or other assistance as may be necessary to enable the Department to carry out effectively its functions under this Act, and enter into arrangements with—

- (a) a Minister of the Crown of any State of the Commonwealth, a Minister of State of the Commonwealth, a department or instrumentality of the Commonwealth or any State of the Commonwealth; or

(b) a university or other tertiary institution;
or

(c) any other body or person,

with respect to the conduct of any investigation, study, research or project that may be necessary or desirable for the purposes of this Act.

Transitional provisions as to staff.

9. Notwithstanding the provisions of section 7 and section 8 of this Act the persons who immediately prior to the coming into operation of this Act were respectively the Director of the Department of Child Welfare appointed under section 6 of the Child Welfare Act, 1947, and the Assistant Director of Child Welfare, shall be deemed, on the coming into operation of this Act, to have been appointed in accordance with this Act to the offices of Director of the Department for Community Welfare and the deputy of the Director respectively.

Functions.

10. The functions of the Department are—

- (a) to promote individual and family welfare in the community;
- (b) to prevent the disruption of the welfare of individuals and families in the community, and to mitigate the effects of any disruption;
- (c) to co-ordinate, assist and encourage the provision of social welfare services to the community, and for that purpose to confer and collaborate with other bodies and instrumentalities who offer, or may offer, a social welfare service;
- (d) to conduct, promote and encourage research into the problems of community welfare;
- (e) to conduct, promote and encourage programmes of training or rehabilitation, or which are otherwise of a nature that is concerned with the advancement of the welfare of particular individuals or groups in the community who are disadvantaged;

- (f) to consider and initiate, or to assist in, the provision and development of new or additional welfare services, whether of a general or specific nature, for individuals or groups within the community who are needy or disadvantaged;
- (g) to encourage the development of the greatest possible degree of service and administration at the local level, and to emphasise the value of preventive measures;
- (h) to provide assistance, where the Minister considers it to be necessary, when the welfare of any individual, family or group is threatened or in jeopardy;
- (i) to provide and, where appropriate, to manage facilities, which may include land, buildings and specialized appliances, for specific purposes consistent with the objects of this Act;
- (j) generally, to administer and give effect to the provisions of this Act and to carry out such other functions as may be prescribed, or as the Minister may direct.

11. (1) The Director shall, as soon as practicable Reports. after each thirtieth day of June, prepare and furnish to the Minister a report in writing of the operations of the Department during the year ended on that date.

(2) The Minister shall cause the report furnished to him under subsection (1) of this section to be laid before each House of Parliament within twelve sitting days of that House after receipt of the report by the Minister.

Gifts, etc.

12. The Minister may accept any gift, devise or bequest of any property that is made for the purpose of carrying out the objects of this Act, and the Minister may, subject to any trusts relating thereto, use any such property or apply the proceeds or the income arising therefrom in any manner he thinks fit towards that purpose.

Director to have access to disadvantaged individuals in employment.

13. Where a person who is, in the opinion of the Director, an individual who is disadvantaged is employed, or engaged as an independent contractor, any officer of the Department, or any person generally or specifically authorized in writing by the Director for that purpose, shall be permitted to have access to that individual and to any place in which he may be, for such inspection and inquiry as may be necessary for the purposes of this Act.

Director may manage property of disadvantaged individuals.

14. (1) The Director may undertake the general care, protection and management of the property of any person who, in the opinion of the Director, is disadvantaged, and may—

- (a) take possession of, retain, sell or otherwise dispose of, any such property, whether real or personal;
- (b) in his own name sue for, recover or receive any money or other property due to, or belonging or held in trust for, the benefit of such a person, or damages for any conversion of or injury to any such property;
- (c) exercise in the name of such a person any power that the person might exercise for his own benefit;
- (d) in the name and on behalf of such a person appoint any person to act as attorney or agent for any purpose connected with the property of that person;

- (e) require from any person who has had any contractual transaction or financial dealing or dealings in property with such a person, a statement in writing of any transaction or dealing during the period of one year immediately preceding the requisition.

(2) The Director may expend or apply any money in his possession or standing to the credit of any such person for the maintenance, education, advancement or benefit of that person or any dependant of that person.

15. The powers conferred by section 14 of this Act shall not be exercised in relation to any person where—

Restrictions
on the
exercise of
powers
under s. 14.

- (a) that person is over the apparent age of eighteen years, unless he has given his consent in writing and has not subsequently given notice in writing to the Director withdrawing that consent;
- (b) that person is under the apparent age of eighteen years, and has a parent, guardian or near relative whose whereabouts are known or can be ascertained by reasonable enquiry, unless the written consent of such parent, guardian or near relative has been obtained and has not subsequently been withdrawn by notice in writing given to the Director.

16. Production of evidence in the prescribed form by an officer of the department is sufficient proof in any court that the consent required to be given under section 15 of this Act has been obtained and remains in effect and shall be sufficient evidence in any court as to the opinion of the Director in relation to the person named therein at the time specified in the form.

Evidentiary
provisions.

Appeals.

17. Where a person is dissatisfied with—

- (a) any decision to exercise a power under section 13 or section 14 of this Act in relation to any person; or
- (b) the exercise or purported exercise of any such power,

he may, within fourteen days thereafter, appeal in writing to the Minister who shall hear and determine the matter. .

Accounts and audit.

18. The Director shall keep proper records and accounts of all money and other property received or dealt with by him under the provisions of this Part, and in relation thereto is deemed to be a person subject to the provisions of the Audit Act, 1904.

Right of representation in proceedings.

19. Any officer of the Department, or any person generally or specifically authorized in writing by the Director for that purpose may in any legal proceedings in any court to which a person who is, in the opinion of the Director, disadvantaged is a party, or in which such a person is indicted for or charged with any crime, misdemeanour or offence, address the court or the jury on behalf of that person and examine and cross-examine witnesses.

Power to delegate.

20. (1) The Director may, with the approval of the Minister, delegate all or any of his powers or functions—

- (a) to any officer of the Department;
- (b) to any person or body or any officer or employee thereof, being a person or body, whether corporate or not, who or which under the authority of any Act administers or carries on for the benefit of the State,

or any district or part of the State, a social service, or who or which exercises or performs any function in relation to the carrying on of a social service,

and may, with the approval of the Minister, vary or revoke any such delegation.

(2) A power or function delegated by the Director may be exercised or performed by the delegate—

(a) in accordance with the instrument of delegation; and

(b) if the exercise of the power or the performance of the function in relation to a matter is dependent upon the opinion, belief or state of mind of the Director—upon the opinion, belief or state of mind in relation to that matter.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a duty by the Director.

21. (1) A person who wilfully obstructs any person acting in the execution of this Act commits an offence against this Act. Obstruction.

Penalty: Two hundred dollars.

(2) A person who fails to give to any person acting in the execution of this Act any assistance which that person may reasonably request him to give, or any information which that person is expressly authorized to call for or may reasonably require, or who, when required to give any such information, knowingly makes any false or misleading statement in relation thereto, shall be treated as having wilfully obstructed that person.

(3) Any statement made pursuant to a requirement made in the execution of this Act shall not, if the person making the statement objected, at the time of making it, to doing so on the ground that it might tend to incriminate him, be admissible in evidence in any prosecution against the person for any offence not being the offence of contravening or failing to comply with the provisions of this section.

(4) A refusal to give to any person any information which that person cannot show to be required in relation to any individual for the purposes of this Act shall not be treated as wilfully obstructing that person.

Regulations.

22. The Governor may make regulations not inconsistent with this Act for or with respect to any matter or thing which is required or permitted to be prescribed by this Act, and any such regulation may confer upon a specified person or body a discretionary authority.
